

Meeting of 1999-1-5 Special Meeting

MINUTES
SPECIAL CALLED MEETING
LAWTON CITY COUNCIL
JANUARY 5, 1999 - 5:30 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:
Presiding Bill Baker, Acting City Manager
 Frank Jensen, Deputy City Attorney
 Brenda Smith, City Clerk

The meeting was called to order at 5:30 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by State Law.

ROLL CALL

PRESENT: G. Wayne Smith, Ward One
 Richard Williams, Ward Two
 Jeff Sadler, Ward Three
 John Purcell, Ward Four
 Robert Shanklin, Ward Five
 Charles Beller, Ward Six
 Stanley Haywood, Ward Seven
 Randy Warren, Ward Eight

ABSENT: None.

BUSINESS ITEM:

1. Consider receiving a presentation from the Oklahoma Department of Environmental Quality (ODEQ) addressing the implementation of a Watershed Management Plan. Exhibits: None.

Jerry Ihler, Public Works/Engineering Director, said discussions had been held previously about the 1996 Safe Drinking Water Act and the amendment. One item addressed in the Act is the development of a source water protection program, which would impact Lawton through the two water supply lakes owned and operated by the City, those being Lakes Lawtonka and Ellsworth. He said ODEQ representatives are here for a presentation on EPA's guidelines with regard to establishing a source water protection program.

Michael Houts, ODEQ, Program Assistant Administrator for Water Quality Division, said in 1986 the Congress made it mandatory for the states to do a well head protection program, which meant delineating an area around each of the public water supply wells that was a zone of contribution for those wells. Those were for purposes of protecting those wells from bacteria and chemical contamination. In the 1996 amendment to the Safe Drinking Water Act, the surface water supplies were added. ODEQ has submitted a draft plan to EPA for surface and ground source water protection, which allows the State of Oklahoma to do the program instead of having the EPA do it. Under the program, ODEQ delineates the water shed, which is the area that contributes to Lawton's water supply, and the program they established, following EPA's guidelines, is to do the delineation, then a source inventory, then a management plan for those sources and a contingency plan to determine what you would do in case something happened to your public water supply. He said there was an oil spill recently from farmland refinery in Kansas and the oil made its way down to the Oologah reservoir, which is a public water supply lake in Northeastern Oklahoma, and that would be a contingency, emergency situation in which you would take some kind of action. Houts said their aim is to get municipalities to have some kind of plan so they will know what to do when these sorts of things occur.

Houts passed around maps of Lakes Lawtonka and Ellsworth, and stated the watershed area covers two counties and includes a great deal of land. The three zones for source water protection around the lakes are the 660 foot zone, which the City should own and manage; then the mile mark, which is an intermediate zone ODEQ selected because they felt if something occurred outside the mile zone that there would be ample time to react; then the rest of the watershed, which if a drop of water falls inside that line, at some point, it will end up in the lake if it

does not evaporate. Those markers follow the EPA guidelines.

Houts said Mr. Ihler and Mr. Graves had been working with ODEQ from the beginning of the program and asked for the delineation to be done and for the program to be presented to the Council. He introduced Margaret Graham stating that she encourages implementation and assists with the source inventory and with other parts of implementation, such as creating a management plan and a contingency plan. There are two things the law says the states must do and those are delineation and assessment. To do an assessment, there must be an inventory of potential sources, and it is basically a risk assessment of the potential sources of contamination. ODEQ is not really doing a risk assessment because they do not have the resources, and the resources were not provided to do that, although EPA provided a way to prioritize those risks, and there is a method in a packet that describes how the district engineers for each public water supply will do those assessments. Houts said ODEQ needs assistance from the cities to do the inventories.

Houts gave the following numbers for questions: Margaret Graham (405) 702-6122; Patty Thompson, District Engineer for Southwest District of Oklahoma, (405) 702-8105; Richard McDaniel, local DEQ Representative, 357-9733. 1-800-522-0206 is the Complaints Hotline for reporting complaints or spills or something of that nature. Another 800 number is 1-800-869-1400. Beller asked if Council was to call these numbers for questions as opposed to asking them tonight. Houts said any questions can be asked tonight and these numbers are for future use.

Shanklin asked how many other government agencies would react in an emergency situation with a public water supply, such as an oil spill, or if the City was supposed to try to handle it alone. Shanklin said those in Oologah had no control over what happened in Kansas and had no jurisdiction so it had to take other people. Houts said Kansas responded, as well as other agencies in Oklahoma, such as the Corporation Commission because it was oil or gas related. Houts said whoever has responsibility for whatever contamination there is should respond, and part of the contingency plan is to get those numbers available. There is a draft contingency plan in the back of the packet that was distributed, and the numbers of all the state agencies should be listed, as well as their responsibilities.

Margaret Graham said the booklet on source water protection was developed parallel to the booklet on well head protection. They try to operate on a team approach because most small cities do not have resources or many paid staff members, so a lot of the work is done by volunteers and they have tried to simplify it as much as possible. The first step was to develop a team that would actually do a survey. The delineation is done professionally by ODEQ since they have the technical and computer resources and can share those with other State agencies. ODEQ has a list of all those who are permitted, the locations of the industries that are permitted and what they are allowed to discharge or store, and companies are required to submit a lot of information to the government and ODEQ has access to that data. Graham said they are attempting to verify information and work with a local team, whether it be staff or volunteers, to actually do a survey. The survey looks at land use in the water shed around a lake and what contaminants are present or what are the possibilities for accidents. She said tornadoes and straight wind damage are common in Oklahoma, and they look at what would happen if electrical transmission lines go down and contingency plans for that occurrence. Graham said larger cities have contingency plans, professional staff, and management but they work with the smaller cities on basic issues such as where they could get generators or potable water in case of disaster, and the contingency planning in those cases is very basic.

Graham said when the law was amended to include public water supplies by lakes, the larger communities are now included because most of the large, metropolitan areas in the State are served by surface water. She said Oklahoma City still has some wells but they have four reservoirs. Graham said some water sheds cross state lines, but the bottom line is what could happen to a drinking water supply in the future and how much would it cost if something happened. Replacement costs and treatment costs are very expensive and they are looking at a preventative program to assess risks. She said it also gets into the unpopular area of land use, and land use regulation may include zoning, or different political subdivisions having to work together. Graham said water sheds are laid out where Mother Nature put the drainage, and not by political subdivision, and the different entities may not agree and may share a common water source and have old arguments with each other about water rights.

Beller asked how Lawton's government could control land use that is outside of its jurisdiction in the water shed and said it could not be done. Graham said it cannot be done by regulation, and very few water supply reservoirs can be done strictly by resolution or land use zoning and there is a lack of jurisdiction and the city usually has no direct jurisdiction over the land. She said given those circumstances, they go to another approach, which is mutual cooperation with areas that do have jurisdiction and working on public education in the area to make people aware that they are living in a water shed. Graham said they look at what is going on in the water shed and see who had influence in the area; if it is an agricultural area, there are farm organizations that probably have more direct contact with the farmers and more influence on them than any city government, so cities may need to work with those organizations, such as Farmers Union, Farm Bureau, Coop and so forth. Those organizations could make farmers aware that they are farming in a public water supply water shed area, and help them become aware if there are problems with some of the runoff and see if they are having an impact or if there is something they could be doing differently. Graham said they work with OSU and OSU Extension and various colleges about state of the art farming practices. She said it cannot be done with regulation as the problem is too large and most of the state is in someone's water shed so most of it will have to be done through immediate public education, then long term

public education. Graham said they work with elementary school groups to get kids thinking about the fact that the way they live has an impact on the environment and can affect the water supply. She said regulation can go only so far and that people must be made aware of their responsibilities as a citizen in protecting the water supply. Graham said Oklahoma in general has a clean water supply and does not have many of the problems that other states are having with contaminated water, and we also have the responsibility to not assume that it will always be that way and to see what can be done now to prevent costly treatment in the future and all of the monitoring requirements for chemicals that should never have been introduced into an area, and much of that is done by public education.

Mayor Powell asked what had been identified as the number one item factor of causing the contamination. Graham said probably the biggest in the State is soil erosion, sediment. Beller asked if that dealt with pig farms or if they cause problems with contamination of public water supplies. Graham said it could be a problem; it is not now but it may be in the future and they are looking at regulations now to prevent problems before they develop.

Mayor Powell asked if the problem was the soil itself or if it was something in the soil, and why it would be different today than in the past. Graham said there is more land use development and more intense use in certain areas, and not always the conservation there has been in the past. She said storm water run off from metropolitan areas is increasing. Mayor Powell said there would seem to be less run off from areas to the north, which are not as greatly developed as Lawton. Graham said it is a different set of problems as far as run off from the metropolitan area and the rural areas. She said one of Edmond's drinking water supplies is Lake Arcadia, and its water shed is the north half of Oklahoma City and it has had almost every contaminant imaginable identified in the run off.

Beller asked how erosion would contaminate the water supply. Graham said the sediments and contaminants carried with the sediment and it increases treatment. Beller asked if there were contaminants from erosion. Graham said yes. Beller asked where the contaminants come from. Graham said some is just basic soil; if the water is initially clear and there are then erosion problems, the lake will start silting in and that will raise turbidity and suspended solids in the water which means the cost of treatment rises because you have to filter or use different types of settling or treatment so that it increases the cost of treatment because you no longer have clear water coming in from the raw water supply.

Beller asked how to approach the silting problem and said that Shanklin had asked a similar question two years ago regarding the north end of the lake and soundings were done showing where original creek beds had filled in. Graham said there were previously agricultural programs which provided cost match funding for erosion control, terracing, alternate farming programs to change erosion programs and reduce the amount of topsoil that was being lost into the reservoirs. She said many of those funding sources have dried up and farming practices have changed somewhat and some areas actually have increased erosion; on the other hand, there has been success in changing farming practices and crop production methods so that the topsoil loss has diminished.

Graham said the siltation problem may be long term but the cost of a clean lakes program to drain and dredge and re-work a lake is very expensive. She said that is a different problem but it can be addressed in looking at the land use.

Mayor Powell asked if Oklahoma did not have an excellent soil conservation program. Graham said by in large, yes. Mayor Powell asked why those persons were not being talked to about more soil conservation programs. Graham said they are trying to do both, to include what is being applied to the land and what is being disposed of in the land; progress has been made in industrial permitting as far as what companies can discharge in their effluent from a facility. She said the permits are usually good for five years and they usually have to eliminate contaminants or lower the concentration with each permit renewal.

Purcell asked if this was referring to Lakes Lawtonka and Ellsworth as far as source water protection and Graham said yes. Purcell said the program is to make sure no contaminants flow into those two lakes. Graham said they are looking at the two water sheds for those two reservoirs. Purcell said Council previously received a memorandum from the City Attorney regarding use of shore line areas, and asked how far the area of the water shed goes back from the lakes. Graham said they are looking at all three zones for varying degrees of protection, starting with the immediate shoreline, or 660 feet, then the mile area, then the remaining water shed. She said if there is a spill within the first 660 feet, it would be pretty quick to enter the water; if it is eight miles back in the water shed, you have days, months or years to address remediation and it is a different type of protection. Graham said if there is a marina with fuel docks, it could be crucial if a pipe bursts because it would be in the water supply immediately, but if it is some feet back, you would buy yourself a little time. She said you should look at what you permit to happen immediately around the lake. Graham said a septic tank in close proximity to the lake water is different from one eight miles back, so the design and inspection and permitting to allow things in the immediate lake area should be considered. She said they eventually want to look at the entire water shed but would start from the closest point to the water and work their way backward.

Shanklin asked what 660 feet really meant to ODEQ. Graham said it is shot on an elevation and it is actually from the edge of the water. Shanklin asked what could not be within the 660 feet. Houts said the Council has the

authority to make that decision and they would suggest that nothing be there. Beller asked if recreational programs were prohibited. Graham said not necessarily, and it is a community decision as to what type of risk you are willing to accept. Graham said you can have recreation but you do not necessarily have to allow them to have a transfer station right by the water, it can be located further away from the lake. She said the State of Oklahoma has built boat docks in state parks without doing storm water prevention which allowed silt and construction material to enter the water. Graham said if you issue a building permit for an area adjacent to a water source, the inspector needs to actually be there and make a closer inspection than usual.

Beller said he hated bureaucracy and losing rights to use things. He said he thought a state statute provided that lakes were open to everyone. Graham said publicly owned reservoirs have a certain access but if it is privately owned and controlled you have a greater control; some public water supply reservoirs allow swimming and some do not and that is a decision which is very controversial since skiing and boating are allowed. Beller said a cow could stand in the water knee deep but his kids could not swim in the water and that did not make sense. Graham said they were asking why cows were given access to the reservoir, and they were looking at limited access from cattle on some of the immediate creeks. Beller said Lawton prohibited swimming for many years but allowed skiing and cows but kids could not swim, so there is a limited amount of what the public can be forced to accept. Beller said it seemed the Council took away someone's rights about every two weeks. Graham said she serves on a city council and also had a Master's in urban planning so she taught in school how to zone and restrict people, and on the other hand, she would sit in the council chambers and try to tell people what they can do with their property and it is not pleasant.

Mayor Powell said the persons in the audience would be given a chance to participate.

Baker said the City Attorney had recently given an opinion on building structures within the 660 feet, and he determined the City had discretion and the one concern was that anything built in that area must address pollution prevention. He said a meeting was held with some of the concessionaires recently to discuss that, and the City Attorney originally had concerns in looking at the State Statute that nothing could be built but then found a later statute giving municipalities some discretion and things can be built, but you must address pollution prevention measures. Beller said not all attorneys always agree in interpretations.

Graham presented slides giving examples of problems that have been found in water sheds. The slides pointed out the need for erosion control, the need for restroom facilities if there are recreational areas around a shoreline, golf courses requiring irrigation, fertilizer and pesticides, which could be a problem particularly if they are in close proximity to a lake, dilapidated structures which may contain abandoned pesticide or chemical containers, water run off from urban areas to public water supplies, the need for dumpsters in lake areas to prevent dumping of refuse in creek beds or rural areas around a lake, the need to control use of fertilizers to protect the water and to make its applications to crops as profitable as possible, the need to irrigate as effectively as possible, application of animal waste as fertilizer on farm lands located in water sheds, location of feed lots in close proximity to lakes, use of crop dusting, location of underground gas tanks and the new requirements to prevent pollution, and restrictions on what can be developed with the flood plain areas; improvements required at landfills to prevent both run off and leaching, and the location of oil wells and regulations with regard to pollution. She said these were examples of things that should be considered.

Mayor Powell asked for audience participation.

Bill Kennard said the DEQ representative said she had the authority to enforce this but does not have the money and wants the cities to do so. He said Lawton has three lakes and the Waurika Master Conservancy District controls one and the Corps of Engineers controls that shoreline. Kennard said as far as Lake Ellsworth he thought the lawyer from Walters controlled it. He said the water in Lake Lawtonka comes off of the mountains in the Wildlife Refuge and much of the catchment area belongs to them so Lawton could not control it.

Duty Rowe, Meers, Oklahoma, said he owns as much of Medicine Creek, Jimmy Creek, Canyon Creek and miles of drainage into Lake Lawtonka as anyone. He said reports on the quality of water in Lake Lawtonka were usually the best in the state to his knowledge, and that everyone in that area could be real proud. Rowe said his property was within mile on its east border and joined City land, and Medicine Creek was the same as it was when he was a child. He said there is a lot of siltation, and that his son in-law had bought land on the north side of the Slick Hills which had a concrete dam on it that contained about two or three feet of water. Rowe said the structure was built in 1912 and there had been no farming within five miles of it, and there was about 20 feet of silt in that structure, so there is not a way to eliminate the problem of silt.

Rowe said he had a lot of respect for DEQ and had served on the Hazardous Waste Advisory Council, and their educational efforts have been good. He said he belonged to the Oklahoma Cattlemen's Association and other agricultural groups which are very aware of what is going on. Rowe said those organizations voluntarily encourage their memberships to become better land stewards and they do work at it, and some of the members try to attend each session such as this so they can report it on to the membership.

Rowe said he drinks the same water as the rest of the people and thanked the City for it and that it is good water. He said he hoped that Lawton would see fit to continue selling water to their small community and that it is very good water. Rowe said they feel they should take care of it and that if something is not right on his part, he would fix it.

Mayor Powell commended Mr. Rowe and his community for being good stewards of the earth and helping preserve the water shed and water supply.

Houts said if they had the authority to enforce around the lakes, they would be glad to do that, but Lawton does have the authority so they come to Lawton because it does have the legal authority. He said DEQ has a reputation of being the 400 pound gorilla in State government as far as environmental laws. The Conservation Commission has no authority and has nice programs that give away a lot of money to people who do conservation projects, but if the people do not do those and have silt running off of their site, DEQ is called. Beller said he would much rather deal with ODEQ than with the EPA. Houts said they would prefer that citizens spend their money making corrections to problems rather than paying it in fines.

Houts said they are not present to do enforcement and it causes problems in small communities because they do not believe help will be provided but only enforcement measures. He said the agency had made some progress in improving water quality as a result of regulations and enforcement efforts throughout the State. Houts said the biggest pollution problems are things that are non-point source; the point source discharges are regulated, such as sewage treatment plants or industries such as Republic Gypsum at Duke, Oklahoma, which discharges water into a lagoon and if it leaves the lagoon, it must meet a certain quality.

Houts said Mr. Rowe is the type of person needed on Lawton's team because he lives there and knows what happens there; Mr. Kennard is also concerned and would be a good team member. Houts said his phone number is (405) 702-8184.

Williams asked where we are in developing such a plan. Baker asked if there was a deadline for the plan and if Ihler could answer the council member's question. Ihler said we are in the process of putting together the team that was referred to and the team would have a part in developing the program for source water protection, and Graves has submitted recommendations with the names varying from ranchers in the area to engineers and wildlife conservation personnel and those who are knowledgeable about the water shed and live in the area, and those who are interested in being part of the team. Ihler said Mr. Rowe would be asked to serve. Houts said the deadline is the Year 2003.

COMMENTS: Shanklin said Mr. Tandy from FAA was to look into how we are approaching the airport overlay and there is a meeting tomorrow which Council members may want to attend because Beller is a member of the Airport Authority. He asked if Council members were allowed to attend as spectators and Jensen said that is permissible.

Beller said there is an underground stream of water at the Airport and they are attempting to find the source of the water because it is affecting the runway. He said there would be a meeting tomorrow at 1:30 of the consultant, the engineers involved, and hopefully the FAA project manager at the Airport Conference Room. Beller urged any Council members to attend that could do so because in his opinion it was a serious enough problem to warrant concern. He said the problem is there, the way is there, and we are going to attempt to put an overlay on the runway because we identify the problem with the water source.

There was no further business and the meeting adjourned at 6:45 p.m. upon motion, second and roll call vote.